

**ANNUAL REPORT  
OF THE  
INDIANA CHILD CUSTODY AND SUPPORT  
ADVISORY COMMITTEE**



**Indiana Legislative Services Agency  
200 W. Washington Street, Suite 301  
Indianapolis, Indiana 46204**

**October, 2000**

# INDIANA LEGISLATIVE COUNCIL

## 2000

Speaker John Gregg

Chairman

Sandborn

Senator Robert Garton

Vice-Chairman

Columbus

Representative Paul Mannweiler

Indianapolis

Senator Richard Young

Milltown

Representative Mark Kruzan

Bloomington

Senator Harold Wheeler

Larwill

Representative Dale Grubb

Covington

Senator Joseph Harrison

Attica

Representative William Cochran

New Albany

Senator Patricia Miller

Indianapolis

Representative Charlie Brown

Gary

Senator Thomas Wyss

Fort Wayne

Representative Jeffrey Linder

Waldron

Senator James Lewis

Charlestown

Representative Richard Mangus

Lakeville

Senator Earline Rogers

Gary

Philip J. Sachtleben  
Executive Director  
Legislative Services Agency

# INDIANA CHILD CUSTODY AND SUPPORT ADVISORY COMMITTEE

## Membership Roster

### Representatives

John Day, Chairperson  
Indianapolis

Vanessa Summers  
Indianapolis

Cleo Duncan  
Greensburg

Brent Steele  
Bedford

### Senators

Richard Bray  
Martinsville

David Ford  
Hartford City

Anita Bowser  
Michigan City

Billie Breaux  
Indianapolis

### Lay Members

Bruce Pennamped  
Indianapolis

Karen Perkins  
Columbus

Carol Branham  
Fishers

### Staff

Carrie S. Cloud  
Attorney for the Committee

John Parkey  
Fiscal Analyst for the Committee

A copy of this report is available on the Internet. Reports, minutes, and notices are organized by committee. This report and other documents for this Committee can be accessed from the General Assembly Homepage at <http://www.state.in.us/legislative/>.

## **I. STATUTORY AND LEGISLATIVE COUNCIL DIRECTIVES**

The Indiana General Assembly enacted legislation (now codified at IC 33-2.1-10) directing the Committee to review the child support guidelines adopted by the Indiana Supreme Court by considering all relevant matters, including but not limited to the following:

- (1) The mathematics pertaining to the child support guideline chart.
- (2) The actual costs of supporting a child.
- (3) Whether it is appropriate to calculate child support guideline amounts based primarily upon the ability of the parent to pay rather than the financial needs of the child.
- (4) Equality of child support awards for the children of the parties, regardless of birth order.
- (5) A mechanism that may be employed to modify the amount of support to be paid due to a change in financial circumstances or a change in the number of children being supported by either parent.
- (6) The age of a child to the extent that the child may require different amounts of support at different ages.
- (7) Clarification regarding under what circumstances, if any, support may be abated.
- (8) A mechanism that may be employed to ensure that the guidelines are applied flexibly.
- (9) The application of the guidelines to a split custody situation.
- (10) Whether it is appropriate to base child support guidelines upon the premise that the child should enjoy the same standard of living that the child would have enjoyed had the family remained intact.

The General Assembly also directed the Committee to review custody and educational expenses and other items relating to the welfare of a child of a family that is no longer intact.

In Legislative Council Resolution 00-1, the Legislative Council assigned the following additional responsibility to the Committee: to study issues concerning child custody, visitation, and the age of emancipation, as suggested in SCR 51-2000.

## **II. INTRODUCTION AND REASONS FOR STUDY**

See Section I above.

## **III. SUMMARY OF WORK PROGRAM**

The Committee met two times during the 2000 interim.

The first meeting of the Committee was held at the State House on July 27, 2000. Discussion topics at the meeting included the following: 1998 amendments to the Indiana child support guidelines; proposed parenting time guidelines; child support collection update; and the treatment of income of a minority shareholder noncustodial parent.

The second meeting of the Committee was held at the State House on October 26, 2000. Discussion at this meeting concerned the adoption of recommendations and a final report.

#### **IV. SUMMARY OF TESTIMONY**

##### **1998 Amendments to the Indiana Child Support Guidelines**

Federal law requires a state to review its child support guidelines every four years. The Committee was presented with information regarding the procedure used by the Domestic Relations Committee of the Indiana Supreme Court for reviewing and amending the child support guidelines. Issues that were addressed in the 1998 amendments to the guidelines included the following:

- Irregular income (e.g., bonuses, commissions, overtime).
- Health insurance premium costs.
- Prior-born and subsequently-born children.
- Uninsured health care costs.
- Use of child support worksheet.
- College expenses.

##### **Proposed Parenting Time Guidelines**

Indiana Judicial Center staff explained to the Committee that the Domestic Relations Committee of the Indiana Supreme Court had developed proposed parenting time guidelines for use by courts in divorce and paternity cases in issuing visitation orders. Many counties use visitation guidelines, but these guidelines can vary greatly from one county to another, or even between courts within the same county. The proposed guidelines were built upon the child-centered (or child-focused) approach that is used in some Indiana counties and other states. The basis of this approach is that the child's needs, not the parents' needs, should be the most important factor in determining what visitation ("parenting time") is appropriate. The proposed guidelines stress cooperation between parents in arranging and executing parenting time and require mediation before court action if the parents are unable to agree. It is estimated that the earliest that the proposed guidelines, if adopted by the Supreme Court, could become final would be mid-2001. Any opposition to the adoption of parenting time guidelines is anticipated to be regarding making the guidelines apply on a state-wide basis, not on using the child-centered approach.

##### **Child Support Collection Update**

Officials from the Division of Family and Children, Family and Social Services Administration (FSSA), provided the following information:

- Indiana has received an exemption from the federal requirement of having a single location for child support payments to be received and disbursed. This exemption allows Indiana to continue to have the county clerks collect and distribute child support payments. However, even with the exemption, Indiana is still required to maintain a single collection and disbursement location for all child support payments made through wage withholding.
- Pursuant to P.L. 213-1999 (HEA 1590), FSSA has established guidelines for county child support agencies to follow in contracting with private organizations for the collection of child support.
- Child support collections have increased every year since 1993, with the largest increase in collections coming in 1999 when all 92 counties were using the Indiana Support Enforcement and Tracking System (ISETS).
- Indiana received certification from the federal government in 1999 for having

ISETS fully implemented and received a refund of penalties in excess of \$2 million.

- Indiana's Fathers and Families Program has been expanded. Thirty-six grant requests were approved, totaling almost \$2 million, for the period of July 1, 2000, to June 30, 2001. The goals of the program are to: (1) increase fathers' involvement with their children; (2) increase paternity establishment; (3) increase child support collections; (4) improve fathers' access to supportive services; (5) improve fathers' parenting skills; (6) improve co-parenting relationships; (7) increase high school graduation rates/GED attainment; and (8) decrease out-of-wedlock pregnancies.

#### Minority Shareholder Noncustodial Parent

The Committee was informed that the income that is attributed for tax purposes to a noncustodial parent who is a minority shareholder in a subchapter S corporation is included in that parent's income for child support purposes, even if the parent does not actually receive the money because it is retained by the corporation for future expenses. The Committee was told that the Domestic Relations Committee of the Indiana Supreme Court was aware of this situation and would probably be looking into it during its next review of the child support guidelines.

## **V. COMMITTEE FINDINGS AND RECOMMENDATIONS**

The Committee made the following findings of fact: NONE.

The Committee made the following recommendations:

- That the Indiana Supreme Court consider revising the child support guidelines to address the situation where part of the income of a corporation is attributed to a parent who is ordered to pay child support even though the parent is a minority shareholder who does not actually receive any of the corporation's income.

## WITNESS LIST

Jeff Bercovitz, Director, Probation and Juvenile Services, Indiana Judicial Center

Joe Mamlin, Deputy Director, Child Support Bureau, Division of Family and Children, Family and Social Services Administration

Judith Stone, resident of Plymouth, Indiana